

## JUDGE'S COPY

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

TERRANCE MONTAGUE,  
Plaintiff

v.

ROBERT W. MEYERS, et al.  
Defendants

:  
:  
: No. 1:CV-00-0895  
:  
: (M.J. Smyser)  
:  
:

FILED  
HARRISBURG, PA

FEB 13 2001

PLAINTIFF'S RESPONSE TO DEFENDANTS' MEMORANDUM <sup>MARY E. D'ANDREA, CLERK</sup>  
IN OPPOSITION TO PLAINTIFF'S MOTION FOR LEAVE  
TO FILE SUPPLEMENTAL PLEADINGS

### Introduction

This is a civil action for damages brought pursuant to 42 U.S.C. §1983. Defendants are officials or employees at SCI-Rockview. Plaintiff is complaining that defendants violated his Eighth Amendment right to be free from cruel and unusual punishment, where defendants knew plaintiff had Asthma, was twice double-celled with an inmate who were (heavy) smokers, where plaintiff has been trying to show the Court that his Asthma has gotten progressively worst since he has been incarcerated at SCI-Rockview because defendants have allowed inmates and prison officials and employees to smoke on the blocks with very high levels of ETS in the air, while knowing that there were very poor ventilations systems on the blocks, and that since the Pennsylvania has come out with a Smoking Policy banning smoking in state buildings, defendants are still allowing inmates to smoke in the cells with that same still very poor ventilation system. Since the filing of this action plaintiff is suffering from officials and employees at SCI-Rockview harassing him in retaliation for filing this action.

Plaintiff has filed several "Motions for supplemental pleading" because of this harassment.

### Argument

THE MOTION TO FILE A SUPPLEMENTAL PLEADING  
SHOULD NOT BE DENIED BECAUSE IT RAISES  
MATTERS OF HARASSMENT IN RETALIATION FOR  
THE FILING OF THIS ACTION

Plaintiff has filed several motions to supplement his pleadings since the state of this action because plaintiff is being harassed in regards to and/or in retaliation for filing this action as set forth in the follows occurrences:

1. Defendants are still keeping plaintiff on A-Block instead

of moving him to the Non-smoking Block, where defendants know that plaintiff has Asthma, that inmates smoke in the cells, the block has very poor ventilation, that there are high levels of EPS in the air, and the Medical Department has filed for an administrative move for plaintiff to be moved to the Non-smoking Block.

2. Sgt. Curtis, the A-Block Sgt., knew that plaintiff had in this §1983 action, but was smoking on the block in front of plaintiff's cell, and Sgt. Curtis has admitted to same to the Facility Grievance Coordinator after plaintiff filed an Official Inmate Grievance.

3. Defendants transferred plaintiff to SCI-Waymart for mental evaluation as harassment and to delay the deposition scheduled deposition on 1/4/01.

4. On 2/3/01, plaintiff went to A-Block Desk to get his Law-library Pass, Sgt. Brezler was smoking a cigarette, and while plaintiff was standing there waiting, Sgt. Brezler deliberately blew smoke in plaintiff's face twice before he gave plaintiff the pass, where plaintiff has filed a "Official Inmate Grievance," and would like to again supplement his pleading to include this incident.

#### Conclusion

For the above-stated reasons, plaintiff's motion for leave to supplement his pleading should be granted in part because of the Harassment.

Dated: 2-11-01

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